



TOWN OF ACTON
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Planning Board

To: Representative Kevin Honan, Chairman, Joint Committee on Housing, State House Room 38, Boston, MA 02133
Cc: Representative Corey Atkins, State House Room 166, Boston, MA 01233
Representative Jennifer E. Benson, State House Room 544, Boston, MA 01233
Senator James B. Eldridge, State House Room 413A, Boston, MA 02133
From: Town of Acton Planning Board
Re: S.2399, *An Act Relative to Statutory Affordable Housing Covenants*
Date: November 21, 2012

We are writing as the Town of Acton Planning Board to offer our support for S.2399, *An Act Relative to Statutory Affordable Housing Covenants*, and request that you support passage of this noncontroversial legislation this year.

The Town of Acton is part of the Regional Housing Services Office (RHSO), formed through an Inter-Municipal Agreement between the Towns of Acton, Bedford, Concord, Lexington, Sudbury and Weston. The RHSO is extremely pro-active in monitoring its affordable units. The RHSO has reported that ~20% of the 250 affordable homeownership units in this area have issues that have the potential to compromise their affordable housing restrictions. As part of this review, all participating towns are concerned that the restrictions on these properties are in jeopardy and enforceability is difficult.

Ensuring that affordable housing retains its affordability is a significant part of our efforts. It is critical that municipal investments in homeownership units are protected and that modest-income families and seniors continue to be able to benefit from affordability for many years after an affordable home is created. Effective affordability restrictions are a central component of long-term housing affordability.

Similar to other restrictions placed on deeds that limit future use, affordable homeownership restrictions ensure that a property is available to and used by people of limited income through limitations on resale prices. However, there is no standard statutory language and the language that comprises these restrictions varies from deed to deed. These restrictions are sometimes unenforceable if not properly drafted and lack standard enforcement mechanisms. The purpose of this legislation is to standardize and simplify elements of affordable homeownership restrictions to promote consistent interpretation and use.

The legislation accomplishes that goal by establishing regularly used terms and covenants for affordable homeownership restrictions and offering a consistent statutory definition of the restriction's meaning, similar to mortgage covenants currently in place in the General Laws. Though not required to create a valid affordable housing restriction, the use of these *statutory housing covenants* will enhance enforceability through a standard remedy, provide consistency (allowing acceptance by the secondary mortgage market) and reduce the possibility for misinterpretation of restrictions that could jeopardize long-term affordability.

The primary goal of this legislation is to protect taxpayer resources dedicated to affordable housing. It does so by maintaining the public benefit derived from the contribution of affordable housing resources to a development. Furthermore, this legislation will reduce expensive litigation by state and local governments that are currently required to enforce affordability restrictions.

We are unaware of any opposition to S. 2399. As previously stated, it is technical in nature, protects taxpayer-funded benefits, and is optional. Therefore, we are hopeful that this bill can clear the legislature in informal session.

Thank you.